

**Introduced by Senator Evans**

February 17, 2011

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An act to amend Section 30823 of, and to add Section 30821 to, the Public Resources Code, relating to coastal resources.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 588, as introduced, Evans. Coastal resources: California Coastal Act of 1976: enforcement: penalties.

(1) The California Coastal Act of 1976 requires a person undertaking development in the coastal zone to obtain a coastal development permit in accordance with prescribed procedures. Existing law authorizes the superior court to impose civil liability on a person who performs or undertakes development that is in violation of the act or that is inconsistent with a previously issued coastal development permit, and on a person who violates the act in any other manner.

This bill would provide that a person who violates the act is subject to an administrative civil penalty that may be imposed by the California Coastal Commission by a majority vote of the commissioners, upon consideration of various factors, in a public hearing, and in an amount no less than \$5,000 and no more than \$50,000 for each violation.

This bill would provide that a person, as defined, shall not be subject to both monetary civil liability imposed by the commission and monetary civil liability imposed by the superior court for the same act or failure to act. In the event that a person who is assessed a penalty by the commission fails to pay the penalty, fails to comply with a restoration or cease and desist order, or challenges any of these actions in a court of law, the commission may maintain an action or otherwise engage in judicial proceedings to enforce those requirements and the court may grant any relief, as specified. This bill would also allow the commission

to record a lien on the property of a violator in the amount of the penalty assessed by the commission if the violator fails to pay the fine.

(2) The act also requires that all funds derived from the payment of a penalty are to be deposited into the Violation Remediation Account of the State Coastal Conservancy Fund, until appropriated by the Legislature, for purposes of carrying out the act.

This bill would instead require that all funds derived from the payment of a penalty be deposited into the Coastal Act Services Fund, until appropriated by the Legislature, for the purposes of carrying out the act.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 30821 is added to the Public Resources  
2     Code, to read:  
3     30821. (a) In addition to any other penalties imposed pursuant  
4     to this division, a person, including a landowner, who is in violation  
5     of a provision of this division is subject to an administrative civil  
6     penalty that may be imposed by the commission in an amount not  
7     less than five thousand dollars (\$5,000) and not to exceed fifty  
8     thousand dollars (\$50,000) for each violation.  
9     (b) All penalties imposed pursuant to subdivision (a) shall be  
10    imposed by majority vote of the commissioners present in a duly  
11    noticed public hearing in compliance with the requirements of  
12    Section 30810, 30811, or 30812.  
13    (c) In determining the amount of civil liability, the commission  
14    shall take into account the factors set forth in subdivision (c) of  
15    Section 30820.  
16    (d) A person shall not be subject to both monetary civil liability  
17    imposed under this section and monetary civil liability imposed  
18    by the superior court for the same act or failure to act. In the event  
19    that a person who is assessed a penalty under this section fails to  
20    pay the administrative penalty, otherwise fails to comply with a  
21    restoration or cease and desist order issued by the commission in  
22    connection with the penalty action, or challenges any of these  
23    actions by the commission in a court of law, the commission may  
24    maintain an action or otherwise engage in judicial proceedings to

1 enforce those requirements and the court may grant any relief as  
2 provided under this chapter.

3 (e) If a person fails to pay a penalty imposed by the commission  
4 pursuant to this section, the commission may record a lien on the  
5 property in the amount of the penalty assessed by the commission.  
6 This lien shall have the force, effect, and priority of a judgment  
7 lien.

8 (f) In enacting this section, it is not the intent of the Legislature  
9 that unintentional, minor violations that only cause de minimis  
10 harm should lead to civil penalties, if the violator has acted  
11 expeditiously to correct the violation consistent with this act.

12 (g) “Person,” for the purpose of this section, does not include  
13 a local government, a special district, or an agency thereof when  
14 acting in a legislative or adjudicative capacity.

15 SEC. 2. Section 30823 of the Public Resources Code is  
16 amended to read:

17 30823. ~~Any~~ All funds derived under this article shall be  
18 ~~expended for carrying out~~ deposited in the ~~provisions~~ Coastal Act  
19 ~~Services Fund, established pursuant to subdivision (a) of this~~  
20 ~~division, when Section 30620.1, until appropriated by the~~  
21 ~~Legislature. Funds so derived shall be deposited in Legislature,~~  
22 ~~for the Violation Remediation Account purpose of the Coastal~~  
23 ~~Conservancy Fund until appropriated. carrying out this division.~~